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Attorneys for Defendants
Ademia Multimedia, LLC; ACMP, LLC; AEBN, Inc.; Audio Communications, Inc.; Cyber Trend,
Inc.; Cybernet Ventures, Inc.; Game Link, Inc.; Global AVS, Inc.; Innovative Ideas International;
Lightspeed Media Group, Inc.; National A-1 Advertising, Inc.; New Destiny Internet Group, LLC;
VS Media, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:

ACACIA MEDIA TECHNOLOGIES
CORPORATION PATENT LITIGATION

Case No. C 05-01114 JW (HRL)

**DECLARATION OF TODD G. MILLER IN
SUPPORT OF MOTION FOR
ATTORNEY'S FEES**

Date: TBD
Time: TBD
Courtroom: 8, 4th floor
Judge: Honorable James Ware

I, Todd G. Miller, declare:

1. I am a principal with the law firm of Fish & Richardson P.C., (the "Firm"), attorneys
of record for Defendants Ademia Multimedia, LLC; ACMP, LLC; AEBN, Inc.; Audio
Communications, Inc.; Cyber Trend, Inc.; Cybernet Ventures, Inc.; Game Link, Inc.; Global AVS,
Inc.; Innovative Ideas International; Lightspeed Media Group, Inc.; National A-1 Advertising, Inc.;

1 New Destiny Internet Group, LLC; and VS Media, Inc. (collectively “the VS Media Defendants”)
2 If called to testify, I could and would testify to the following facts of my own personal knowledge.

3 2. I make this declaration in support of the VS Media Defendants’ Motion for
4 Attorney’s Fees. I am and have been one of the attorneys having direct responsibility for the day-to-
5 day activities in this case from its outset and, as such, can accurately attest to the facts contained in
6 this declaration based on personal knowledge.

7 **Compliance with Local Rule 54-6(b)(1) Meet and Confer Obligations**

8 3. On January 4, 2010, I spoke by telephone with Mr. Alan Block, counsel for Acacia,
9 in an attempt to resolve any disputes Acacia might have with respect to the present motion pursuant
10 to Local Rule 54-6 (b)(1). I advised Mr. Block that the VS Media Defendants would be joining in
11 the motion prepared by counsel for EchoStar. Mr. Block confirmed that he previously had spoken
12 with counsel for EchoStar and other defendants. Mr. Block stated that Acacia would oppose the
13 motion for attorney fees.

14 **Services Rendered and Record Keeping by the Firm Pursuant to Local Rule 54-6(b)(2)**

15 4. The VS Media Defendants were among the first entities against whom Acacia
16 brought this action for alleged patent infringement. They were referred to by Acacia as “the low
17 hanging fruit.” The earliest of the VS Media Defendants were sued by Acacia on November 8,
18 2002, others in 2003. My firm filed answers on behalf of the VS Media Defendants in 2003.

19 5. The Firm took the lead in briefing and presenting arguments on behalf of the
20 defendants in the first of what proved to be many *Markman* proceedings. The Firm moved for
21 summary judgment of invalidity as to claims 1-18 of the ‘992 Patent and all claims of the ‘702
22 Patent in view of the Court’s *Markman* Order following the first round of claim construction motion
23 practice. The Firm’s attorneys also reviewed and responded (multiple times) to the complaint;
24 analyzed and pled detailed claims of inequitable conduct; researched, obtained, reviewed, and
25 analyzed prior art references; and responded to Acacia’s discovery requests. Following the MDL
26 Panel’s referral of all cases to this Court, the Firm continued to be involved in the case including
27 attendance at the subsequent *Markman* and procedural hearings and reviewing and commenting on
28

pleadings. The Firm's attorneys worked on the various aspects of this matter as appropriate for their respective levels of experience in order to maximize value to the VS Media Defendants.

6. The Firm performed legal services in this matter, billed the VS Media Defendants for those services, and were paid by the VS Media Defendants for those services. The services provided by the Firm were billed on an hourly basis at the Firm's customary hourly rates for the services provided. The firm maintains records of the rates charged, hours billed and work performed by the attorneys and legal professionals who worked on this matter in the ordinary course of business through an electronic time keeping and accounting system. The Firm bills time worked by legal professionals in increments of 0.1 hours. The attorneys and legal professionals enter into the time keeping system a description of the tasks performed and time spent, typically on a daily basis, consistent with the Firms policies and practices.

7. At my direction, the Firm's accounting department gathered the billing records for this matter from its inception. Based on that analysis, the Firm's accounting department identified the attorneys and other legal professionals who billed more than 50 hours on this case from 2002 to the present on behalf of the VS Media Defendants. While other attorneys and legal professionals worked less than 50 hours on this matter, the VS Media Defendants are not requesting fees for those services, but believe those non-requested services further support the reasonableness of their fee request. The Firm's accounting department also identified the billing rates charged by these attorneys and other legal professionals during each year of the representation. A summary of that information is provided below along with the current number of years of legal experience for each attorney:

Attorney	Yrs Exper ience	2003 Rate Fees	2004 Rate Fees	2005 Rate Fees	2006 Rate Fees	2007 Rate Fees	2008 Rate Fees	2009 Rate Fees
David Shuman	11	305/hr \$78,476						
Todd Miller	15	355/hr \$298,803	380/hr 244,340	418/hr 52,918	442/hr 18,819	494/hr 14,276	541/hr 16,624	584/hr 8,859
John Schnurer	12	330/hr \$52,404						
William Woodford	12	195/hr \$85,234	238/hr 203,561	285/hr 5,158	318/hr 15,021			

Attorney	Yrs Exper ience	2003 Rate Fees	2004 Rate Fees	2005 Rate Fees	2006 Rate Fees	2007 Rate Fees	2008 Rate Fees	2009 Rate Fees
Katherine Moerke		220/hr \$62,788	271/hr \$68,283					
Gregory Madera	35	525/hr \$91,665	525/hr \$21,210					
Juanita Brooks	36	525/hr \$63,052	525/hr \$40,373					
Christopher Marchese	18	410/hr \$110,044						
Jonathan Singer	18	410/hr \$102,295	437/hr \$269,891	470/hr 21,584	494/hr 4,940	537/hr 1,127	589/hr 6,008	
Subtotal		944761	847658	79660	38780	15403	22632	8859
Total = \$1,957,753								

8. The names of the non-legal professionals (paralegals) who worked more than 50 hours on this case from 2002 to the present on behalf of the VS Media Defendants, their hours worked and hourly rates (adjusted over time) are as follows:

Paralegal	2003 Rate Hours	2004 Rate Hours	2005 Rate Hours	2006 Rate Hours	2007 Rate Hours	2008 Rate Hours	2009 Rate Hours
Chad Roberts	100/hr \$28,430	104/hr \$6,218					
Angela Chianelli	185/hr \$49,858	185.25/hr \$13,801					
Donna Rouseau	155/hr \$29,156						
Mark Abrahams (technology analyst)	185/hr \$67,691	194.75/hr \$13,730					
Subtotal	\$175,135	\$33,749					
Total = \$208,884							
Total Attorney Fee + Total Legal Professional Fee=\$2,166,637							

9. Should the Court require additional information regarding the services provided by each attorney on behalf of the VS Media Defendants, the Firm's billing records or an abstract thereof can be produced in redacted form to support this fee request. Multiplying the hourly rates by the number of hours the attorneys and paralegals worked on this case and then totaling the product results in a total fee amount of \$2,166,637.00, which is believed to be reasonable and is requested by the present motion.

Description of Qualifications and Customary Rates Pursuant to Local Rule 54-6(b)(3)

10. The hourly rates set forth in my declaration are those customarily charged by the Firm for patent infringement litigation, and are believed to be (and have been held by other Courts to be) consistent with rates charged in the legal community for attorneys of comparable skill and experience. Most recently in the cases of *Intamin, Ltd. v. Magnetar Tech.*, Case No. CV 04-0511 GAF (JWJx) (C.D. Cal, December 28, 2009) (Attached hereto as Exhibit A) and *iLor v. Google, Inc.*, Case No. 5:07-109-JMH (D. KY October 15, 2009) (Attached hereto as Exhibit B), the Firm's hourly rates and hours expended were found to be reasonable.

The Firm has consistently been ranked as the Number 1 IP firm in the United States. In September, 2009, *IP Law and Business*, the leading intellectual property magazine, for the sixth straight year named the Firm the top patent litigation firm in the country. Additional information about the Firm and the attorneys who worked on this matter can be found at the Firm's Internet website, www.fr.com.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 4th day of January, 2010 at San Diego, California.

s/ Todd G. Miller
Todd G. Miller

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